

(10)

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No: 2082/2023

Sadia Bibi SST, BPS-17 (P) District MalakandAppellant.

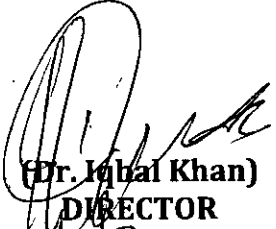
VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE Department & others.....Respondents

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11-01-2024


(Dr. Iqbal Khan)
DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 2)

(1) (D)

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No: 2082/2023

Diary No. 10002

Dated 20-12-23

Sadia Bibi SST, BPS-17 (P) District MalakandAppellant

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE Department &
others.....Respondents

JOINT PARAWISE COMMENTS ON & FOR BEHALF OF THE RESPONDENTS No. 1-2

Respectfully Sheweth :-

The Respondents submit as under: -

PRELIMINARY OBJECTIONS.

- 1 That the appellant has got no cause of action/locus standi.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan, 1973
- 3 That the instant Service Appeal is badly time barred.
- 4 That the appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
- 5 That the appellant has filed the instant appeal on mala-fide motive.
- 6 That the appellant has not come to this Honorable Tribunal with clean hands.
- 7 That the appellant is not entitled for the grant of one pre-mature increment & other consequential benefits w.e.f. 01-10-2007 on the analogy of Judgments dated 03-07-2009 & 04-03-2010.
- 8 That the instant Service Appeal is against the prevailing law & rules, hence, not entitled for promotion in (BPS-18) TC post in the Respondent Department.
- 9 That the instant appeal is based on mala-fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 10 That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present Service appeal.
- 11 That the appeal is not maintainable in its present form & circumstances of the case as the Departmental Appeal dated 10-07-2023 of the appellant has been seen & filed under the Rules by the Department.

12 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.

ON FACTS

1. That Para-1 relates to the service record of the appellant in the Respondent Department against the SST post regarding her adjustment at GGHS Kharkai Malakand on dated 30-03-2016 by the Department.
2. That Para-2 is pertains to the appointment order dated 31-08-2004 of the appellant against the SET in BPS-16 by the Department.
3. That Para-3 is also incorrect & denied on the grounds that the act of the Department with regard to the up gradation of the appellant in BPS-17 on dated ~~16-10-2016~~ instead of ~~01-10-2007~~ is within legal parameter *attached as Annex-A*.
4. That Para-4 is incorrect to the extent of not entitlement of the appellant of pre mature increment & her promotion in BPS-18 regular on the grounds that upgradation in upper scale is always for the financial benefits of the appellant & does not accrued any legal right for promotion against a regular post in BPS-18 under the Rules in the Department.
5. That Para-5 is also incorrect & denied on the grounds that the plea of the appellant is against the Rules & policy in vogue, hence, the Departmental appeal of the appellant dated 10-07-2023 for the grant of pre mature increment & for promotion to the post of BPS-18 TC H/SS has been seen & filed by the Department on the legal ground of regular promotion to the post of BPS-17 in the Department which is yet to be availed by the appellant in terms of his seniority cum fitness bases against his current post of SST.
6. That para-6 is incorrect as the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan, 1973, hence, the appeal in hand is liable to be rejected on the following grounds inter alia: -

ON GROUNDS

- A. **Incorrect & denied**, The appellant has been treated as per Law & Rules by the Department in the titled appeal & has been found in eligible for the grant of pre mature increment w.e.f. 01-10-2007 & promotion in BPS-18 TC under the Rules .
- B. **Incorrect & denied**. The appellant has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected.
- C. **Incorrect & denied**. The appellant is not a similarly placed person as he has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liable to be rejected.
- D. **Incorrect & denied**. The cited Judgment 2005 SCMR P-499 is not applicable upon the case of the appellant in the current circumstances of the titled case.


- (3) (108)
- E. **Incorrect & denied.** The appellant is not a similarly placed person as he has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liabile to be rejected, hence, the provision of Rule-9-A of pay revision Rule-1908 is not applicable upon the case of the appellant.
- F. **Incorrect & denied.** The appellant has got no cause of action to approach this Honorable Tribunal in the titled appeal.
- G. **Incorrect & denied.** The appellant has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liabile to be rejected under the provision of Article-4 of the constitutional of 1973.
- H. **Incorrect & denied.** The appellant has been treated as per law & rules by the competent authority. Therefore, the stand of the appellant is baseless & Liabile to be rejected under the provision of Articles-25 & 27 of the constitutional of 1973. However, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds, case law & record at the time of arguments on the date fixed before this Honorable Bench.

In view of the above made submissions, it is humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favor of the respondent Department in the interest of justice.

Dated ___/___/2023


(Motasim Billah Shah)
SECRETARY

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 1 ~~2~~)


(Dr. Iqbal Khan)
DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 2)

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No: 2082/2023

Sadia Bibi SST, BPS-17 (P) District MalakandAppellant.

VERSUS

Government of Khyber Pakhtunkhwa through Secretary E&SE Department & others.....Respondents

AFFIDAVIT

I, Dr. Iqbal Khan Director E&SE Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.



DEPONENT
(Dr. Iqbal Khan)
DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.

20 DEC 2023



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the 16.10.2018

NOTIFICATION

No.SO (PE)E&SED/2-6/DPC Meeting/Upgradation of SSTs BS-16 to BS-17/2018. On the recommendations of Departmental Promotion Committee, the Competent Authority (Chief Secretary) is pleased to upgrade the following Eighteen (18) SSTs (Male & Female) from BS-16 to BS-17, (Personal to the incumbents), with immediate effect :-

SSTs (MALE)

S.#	S.L.#	Name of Officer & Present Place of Posting
1	2220 FSL-18	Gul Naeem Khan SST GMS Aba Khel NWA
2	2448 FSL-18	Farid Ullah SST Technical GHS Ali Zai Lower Kurram Agency
3	2630 FSL-18	Dilbar Ali Khan SST GHS Kosht Chitral
4	2635 FSL-18	Abdul Latif SST GHS Labar Kot Mansehra

(FEMALE)

S.#	S.L.#	Name of Officer & Present Place of Posting
1	715-A	Farzana D/o Fazal Ghafoor GGHS Charbagh Swat
2	745-A	Ansa Benazir D/O Shah Zaman GGHS Maddi DI Khan
3	953-A	Sadia Bibi D/O Sarfaraz Khan GGHS Kharki Malakand
4	1076	Tahira Jabeen D/O Muhammad Asghar GGMS Mohammad Abad Peshawar
5	1176	Taj Gul D/O Fida Hussain GGMS Charun Chitral
6	1179-A	Tahira Bibi D/O Muhammad Karim Khan GGHS Malik Pura Abbottabad
7	1228-A	Zahida Yousaf D/O Muhammad Yousaf GGCHSS Abbottabad
8	1231	Nazia Afzal D/O Sher Afzal GGHS Sirikot Haripur
9	1252	Taj Meena D/O Ubaid Ullah GGHS Shergarh Mardan
10	1267	Nahid Wakil D/O Abdul Wakil GGCMS Thana Malakand
11	1310-A	Beenish Rafiq D/O Muhammad Rafiq GGHS Khyber Colony Peshawar
12	1317-A	Fatima Batool D/O Mehboob Ahmad GGHS Baffa Mansehra
13	1318-A	Nadia Naseem D/O Nagin Khan GGMS Gul Shah Din Chappri FR Bannu
14	1374	Shetab un Nisa D/O Shamim Khan GGMS Doctor Rehmat Ullah FR Bannu

Attested
R

Attested

Principal
c-1-11-2018

PRINCIPAL
G.G.H. of Kal
Distt: Malakand

SECRETARY

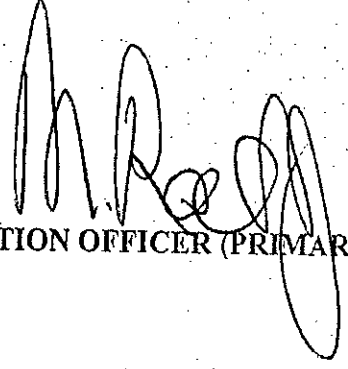
ADVOCATE
SUPREME COURT

C

Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
4. PSO to Chief Secretary to Govt. of Khyber Pakhtunkhwa.
5. PSO to Additional Chief Secretary FATA.
6. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
7. The Director ESRU, Khyber Pakhtunkhwa.
8. The Director Education (Newly Merged Districts), FATA Secretariat Warsak Road Peshawar.
9. The Deputy Director EMIS, E&SE Department, with the request to upload this notification of E&SE Department website (www.kpese.gov.pk).
10. The Section Officers (Male/Female), E&SE Department, Peshawar.
11. The District Education Officers, Elementary & Secondary Education concerned.
12. The District Accounts Officers concerned.
13. PS to Secretary, E&SE Department.
14. PS to Special Secretary, E&SE Department.
15. Officers concerned.
16. Office File.


Attested
P


SECTION OFFICER (PRIMARY)

Attested

Amir
07-11-2018

PRINCIPAL
G.G.H.S Khar Kal
Distt: Malakand


ADVOCATE
SUPREME COURT



**DIRECTORATE ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.**

AUTHORITY LETTER

I, Dr. Iqbal Khan, Director (E&SE) Khyber Pakhtunkhwa Peshawar do hereby authorized Mr. Behramand Khan, Assistant Director Litigation-II of this Directorate for submission of Joint Parawise Comments in **Service Appeal No. 2082/2023 case titled Sadia Bibi SST, BPS-17 (P) District Malakand Vs Government of Khyber Pakhtunkhwa & others** fixed for hearing on 05-12-2023, hence, an authority letter is hereby issued in favor of the above-named officer.

(Dr. Iqbal Khan)
DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar